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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,002	09/18/2003	Gary D. Giegerich	9249-56U1	5833
570	7590	05/08/2006	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			SAADAT, CAMERON	
		ART UNIT	PAPER NUMBER	
			3715	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/665,002	GIEGERICH ET AL.	
	Examiner Cameron Saadat	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.	6) <input type="checkbox"/> Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Beall et al. (USPN 4,974,857; hereinafter Beall).

Regarding claim 1, Beall discloses an electronically-scored game comprising: an electronic controller 22; at least one sensor 25 operatively connected with the controller, the sensor adapted to detect at least one activity associated with the game and to generate a signal; a memory storing information corresponding to a plurality of audible recordings, the memory 39 being operatively connected with the controller 22 (Col. 6, lines 50-54); a sound generator 38 operatively connected with the controller; and a speaker 32 operatively connected with the sound generator 38, whereby upon detection of an activity associated with the game, the signal from the sensor activates the controller to cause at least one of the plurality of audible recordings to be selected and played by the sound generator through the speaker. See Col. 4, lines 34-45; Fig. 4.

Regarding claim 2, Beall discloses an electronically-scored game, wherein the selection of the at least one of the plurality of audible recordings is based at least in part upon the quality of the at least one activity associated with the game. See Col. 6, lines 58-61.

Regarding claim 3, Beall discloses an electronically-scored game, wherein the at least one of the plurality of audible recordings selected is of a derisive character when the quality of the at least one activity associated with the game is unfavorable. See Col. 7, line 64 – Col. 8, line 4.

Regarding claim 4, Beall discloses an electronically-scored game, wherein the at least one of the plurality of audible recordings selected is of a laudatory character when the quality of the at least one activity associated with the game is favorable. See Col. 7, line 64 – Col. 8, line 4.

Regarding claim 5 and 12, Beall discloses a system and method for playing an electronically scored dart game comprising: a dart board 11; at least one dart (Col. 2, lines 65-68); an electronic controller 22; at least one sensor 25 operatively connected with the controller, the at least one sensor adapted to detect a position of impact of the dart on the dart board and to generate a signal corresponding to the position of impact (Col. 4, lines 34-45; Fig. 4); a memory 39 storing a plurality of audible recordings, the memory 39 being operatively connected with the controller 22 (Col. 6, lines 50-54); a sound generator 38 operatively connected with the controller 22; and a speaker 32 operatively connected with the sound generator, whereby upon occurrence of a triggering event, the controller selects at least one of the plurality of audible recordings from the memory and activates the sound generator to play the at least one of the plurality of audible recordings through the speaker. See Col. 4, lines 34-45.

Regarding claims 6 and 13, Beall discloses an electronically scored dart game further comprising: a game memory 27 adapted to store a player's cumulative score through multiple rounds of a game of darts; game control switches adapted to allow cumulative scores of multiple players to be stored in the game memory through multiple rounds of the game of darts (Col. 4, lines 25-30; Col. 6, lines 18-21); and an additional game control switch adapted to allow the players to indicate to the game memory that a thrown dart missed the board (Col. 3, lines 27-33), wherein the triggering event is at least one of impact of the dart upon the dart board. See Col. 4, lines 34-45.

Regarding claims 8 and 15, Beall discloses an electronically scored dart game, wherein selection of the at least one of the plurality of audible recordings is based at least in part upon position of impact of the dart upon the dart board. See Col. 4, lines 34-45.

Regarding claim 10, Beall discloses an electronically scored dart game, wherein the at least one of the plurality of audible recordings selected is of a laudatory character when the triggering event reflects a desirable quality of play. See Col. 7, line 64 – Col. 8, line 4.

Regarding claim 11, Beall discloses an electronically scored dart game, wherein the at least one of the plurality of audible recordings selected is of a derisive character when the triggering event reflects an undesirable quality of play. See Col. 7, line 64 – Col. 8, line 4.

Regarding claim 14. Beall discloses a method, wherein the triggering event is impact of the dart upon the dartboard. See Col. 4, lines 34-45.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beall et al. (USPN 4,974,857; hereinafter Beall) in view of Yancey, Jr. (USPN 5,642,886).

Regarding claim 9, Beall discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing a game level difficulty input switch. However, Yancey Jr.

teaches an electronic dartboard wherein a user may select a difficulty level (Col. 6, line 66 – Col. 7, line 3). Thus, in view of Yancey Jr. it would have obvious to one of ordinary skill in the art to modify the audible game setup mode described in Beall, by allowing a user to select a game difficulty level, in order to adjust the level of play according to a user's skill level.

Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beall et al. (USPN 4,974,857; hereinafter Beall) in view of Miguel et al. (USPN 5,971,397; hereinafter Miguel).

Regarding claims 7 and 16, Beall discloses all of the claimed subject matter with the exception of explicitly disclosing an on/off switch to enable and disable playing of the at least one of the plurality of audible recordings. However, Miguel teaches an audible electronic dartboard comprising volume control (See Miguel, Col. 14, lines 33-52). In view of Miguel, it would have been obvious to one of ordinary skill in the art to modify the audio control described in Miguel, by providing volume control, in order to enable, disable, or adjust volume to a user's desired level.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Tillery et al. (USPN 4,793,618) – disclose a self-scoring electronic target.
- Stewart et al. (USPN 5,486,007) – disclose an automated dartboard.
- Houriet, Jr. et al. (USPN 4,955,967) – disclose an electronic dartboard with a missed dart detection system.
- Wiles et al. (USPN 5,743,533) – disclose an electronic dart game with a scoring system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is (571) 272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CS
Cameron Saadat
May 1, 2006

Robert P. Olszewski 5/1/06
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